**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**RFA Nos. 3710 and 4335 of 2018 (O & M)**
**Date of decision: 22.11.2019**

Hari Parkash and others ....Appellant(s)

Versus

State of Haryana and others ...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr. Aditya Jain, Advocate,
and Mr. Rajat Garg, Advocate,
for the land owners.

Mr. Sudeep Mahajan, Addl. A.G., Haryana,
with Mr. Abhinash Jain, AAG, Haryana.

**G.S.SANDHAWALIA, J.**

The present set of cross appeals are filed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') against the award dated 01.05.2018 of the Reference Court, Gurgaon for village Kadarpur. The Reference Court has assessed the market value at Rs. 4,958.68/- per square yard (Rs.2,40,00,000/- per acre) by placing reliance upon Ex.P-2 whereby, land had been sold @ Rs.3 crores per acre. A 20% deduction was put on account of the fact that the acquisition was only of 1.71 acres and the sale exemplar was of 12 kanals and 12 marlas of land.

Counsel for the State has vehemently opposed the enhancement on the ground that the sale deed was in favour of a builder namely M/s. Chrysilla Builders and Developers Pvt. Ltd. and, therefore, the cut applied was nominal and a 50% cut should have been applied to fix the market value.

The land was acquired vide notification dated 24.06.2008 and for the public purpose of sector roads 58 to 67 at Gurgaon. Vide Award No. 43 dated 12.08.2009, the market value was fixed at Rs.45,00,000/- per acre for 1.71 acres for the land in the said village. The sale deeds which were before the Reference Court are as under:-

| Sr. No. | Exhibit No. | Vasika No. | Dated | Sale Consideration on (in Rs.) | Land Sold | Rate per Acre | Village |
|---|---|---|---|---|---|---|---|
| 1 | P1 | 6786 | 14.02.2007 | 17,71,875 | 0-9M-OS | 3,15,00,000 | Kadarpur |
| 2 | P2 | 1659 | 10.07.2007 | 4,72,50,000 | 12K 12M | 3,00,00,000 | Kadarpur |
| 3 | PX | 2650 | 11.10.2010 | 6,90,00,000 | 12K 0M | 4,60,00,000 | Kadarpur |

Ex.PX was rightly kept out of consideration being post notification by more than 1 year and 4 months. Reliance was not placed on Ex.P-1 as it was only of 9 marlas of land and, therefore, rightly rejected which was also a sale deed by Mool Chand Yadav in favour of a builder namely M/s. Spurt Projects Pvt. Ltd. Ex.P-2 was also sold by the same vendor though being of a larger area. However, the fact that it was in the favour of a builder was totally ignored.

A perusal of the record would go on to show that the claim was that the land was abutting the *abadi* of village Kadarpur and was 4 kilometers from the National Highway No. 8 and surrounded by many well developed residential colonies. Mool Chand Yadav had also appeared in the witness box and admitted that the land was agricultural in nature at the time of acquisition and he had not applied for Change of Land Use (CLU) regarding the land in question. The revenue official had been examined as PW-4 in respect of the case.

It is to be noticed that from the site plan, it would be clear that Kadarpur is situated below villages Ullawas and Behrampur and while dealing with the same set of notification, this Court for the said village has fixed the market value for the said acquisition for the sector roads at Rs.2 crores per acre in RFA No. 7271 of 2013, Dharampal and others vs. State of Haryana and ohters for village Ullawas vide judgment of even date. Similarly, for Behrampur, which is on the eastern side of villages Ullawas and Kadarpur, market value has been fixed @ Rs.1,67,00,000/- per acre. The land of Kadarpur is, in no way, superior to the land of Ullawas as per the site plan Ex.P-3 which would show that Badshahpur is situated on the left which is more developed area as the road from Gurgaon to Sohna cuts through the land of village Badshahpur. Ullawas being situated north of Kadarpur is located better. The principle of 50% cut is to be applied on the sale deed which is in favour of the builder keeping in view the keenness of the builders to acquire property in developing area. The three-Judge Bench of the Apex Court in ***Ram Kanwar and others vs. State of Haryana and another, 2015 (1) RCR (Civil) 234*** upheld the 50% cut which had been applied on account of the abnormal increase which was shown in the sale deeds by holding that necessary deductions had to be applied to bring it at par with the estimated fair market value of the acquired lands. The relevant portion reads thus:-

> *"19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High*

> *Court is that the buyers for all these sale transactions had vested interest in the land adjoining or around the properties in such transaction.*
>
> *20. In light of the aforesaid, it can be concluded that the buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions bringing it at par with the estimated fair market value of the acquired lands. In our considered view, the High Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 notification."*

Accordingly, the market value necessarily would have to be reduced. The claim for enhancement as such on the ground that the deduction was not justified is without any basis as the evidence would also go on to show that the land was agricultural in nature. Development was in the stage of infancy and, therefore, the Reference Court was not justified in granting the enhancement by only putting a cut of 20% but a 50% cut should have been put. Resultantly, the State appeal is allowed and the market value as such for village Kadarpur for the notification is fixed at Rs.1,50,00,000/- per acre and the appeal of the land owners is dismissed. Pending miscellaneous applications, if any, in which no separate orders have been passed, also stand disposed of accordingly.

22.11.2019 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No